

Remarks/Arguments

Claims 1-10 and 13-20 are currently pending in the application. Claims 11 and 12 have been canceled. Claims 1-8, 10 and 13-20 have been amended.

Rejections Under 35 USC §112

Claims 11 and 12 were rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner maintains that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 11 and 12 have been canceled, without prejudice, to expedite the prosecution of this application and accordingly this rejection no longer pertains.

Claims 1-20 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In connection with claims 1 and 8, the Examiner feels that there is inconsistency in the recitation of “a packaging casing” and “in particular a sausage casing”. All of the claims have now been amended to recite a packaging casing. Specifically, independent claims 1 and 8 set forth “a packaging casing for a sausage casing”. In other words, the packaging casing with the release thread is over the sausage casing that is over the sausage. It is thought that these amendments make the claims definite and remove any doubt as to what feature is being claimed. Regarding claim 2, the Examiner considered that the term “casing” used in the claim was unclear. Claim 2 now sets forth that the packaging casing is a shape-determining casing net that surrounds the actual sausage casing. With this amendment, it is submitted that claim 2 is definite and clear in its intended meaning.

Claim 8 was considered indefinite because, according to the Examiner, it merely recited a use without any active positive steps limiting how the use was actually practiced. Claim 8 has now been amended to provide for the method steps of waiting

for the loss of strength of the release thread which takes place under the influence of a treatment compatible with the packaging contents or a result of a time lapse, and thereafter, opening the package casing. Thus, claim 8 now specifically recites the method steps of waiting and opening and accordingly is thought to be in proper form for a method claim.

Claim 8 was also rejected under 35 USC § 101 because the claim recites a use without setting forth any steps involved in the process. According to the Examiner, this results in an improper definition of a process. As mentioned above, claim 8 has been amended to specifically include the steps involved in the process and therefore this rejection no longer pertains.

Claim 10 was considered indefinite because of the recitation of "their dimensional stability grows and the strength of the release thread is reduced". The Examiner thought that the term "dimensional stability" was not clear and raised a question as to what parameter of the packaging casing is intended to be increasing in stability. The meaning of "growing dimensional stability" is that an unstable soft sausage and its casing having little dimensional stability becomes more stable and harder, i.e. more dimensional stability, as a result of the treatment. While this phrase as used is considered definite, claim 10 has been amended to expedite the prosecution of this application by deleting the phrase "their dimensional stability grows and the strength" and replacing it with the phrase "the release thread is reduced in strength". Accordingly, claim 10 is now clear and in proper form.

Claim Rejections - 35 USC §102

Claims 1-3, 5-10, 13, 14, 16-18 and 20 are rejected under 35 USC § 120(b) as being anticipated by Froehlich (U.S. Patent No. 3,928,651). Reconsideration of this rejection is respectfully requested in view of the following comments.

Froehlich discloses a method of treating meat products wherein the meat products are tied together with an edible binding string consisting of an edible collagen. As stated in column 1, lines 49-51, the string is edible and does not need to be removed

after a cooking operation and prior to consumption. The Examiner refers to column 2, lines 60-65, column 3, lines 35-38, in stating that Froehlich teaches a matriculated net for holding a meat product shaped in the form of a tubular casing formed from collagen filaments. The Examiner also refer to column 1, lines 52-55 of the Froehlich patent for teaching that the collagen string has sufficient strength to hold the meat product together during cooking, but becomes tender and soft during the cooking cycle. The Examiner considers the woven stockette recited by Froehlich to be the equivalent to the knitted fabric recited by applicant in claims 1 and 8.

The present invention relates to a packaging casing which comprises a knitted fabric as a strengthening constituent which has at least one seam with a release thread. The release thread loses its strength under the influence of a treatment compatible with the packaging contents or as a result of a time lapse. The present invention provides a way of making it easier to opening a packaging casing. The thread in the casing is removed to open the casing. Specifically as stated in page 2, lines 30-31 of the specification, the casing can be removed in a customary way after opening of the release thread seam.

The Froehlich patent is completely silent regarding the provision of a seam in the casing and of the provision of a release thread that is removed to open the casing. The removing of a string or stockinette of the Froehlich meat product as suggested by the Examiner would be contrary to Froehlich intention that is to provide a meat product with a string/stockinette that is edible and does not need to be removed after the cooking operation and prior to consumption. The Froehlich patent if anything teaches just the opposite of the present invention. A person skilled in the art would not remove any string or stockinette on the meat product of Froehlich prior to consumption. On the other hand, according to the present invention, the release thread is used to open the packing casing that is then removed, which is a completely different concept than that disclosed in the Froehlich reference.

The claims are anticipated only if each and every element set forth in the claims is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros., Inc v. Union Oil Co, 2 USPQ2d 1051.1053 (Fed. Cir.1987). The Froehlich et al. patent fails to meet this criterion. Each and every element of the claims is not found in the Froehlich reference. The Froehlich reference does not disclose a packaging casing that comprises a knitted fabric having at least one seam with a release thread in which the release thread loses strength on the influence of a treatment compatible with the packaging contents or as a result of a time lapse. Accordingly, claims 1-3, 5-10, 13, 14, 16-18 and 20 are patentable over the Froehlich et al. reference.

Claim Rejections - 35 USC §103

Claims 4 and 19 are rejected under 35 USC §103(a) as being unpatentable over Schafer (U.S. Patent No. 6,180,150) and Rueckert (U.S. Patent No. 2,698,800).

It is the Examiner's position that Schafer teaches the removal of netting surrounding a sausage by the dissolution of a cellulose adhesive disposed between the netting and the sausage. The Examiner admits that Schafer is silent regarding a thermoplastic release thread. The Examiner goes on to maintain that Rueckert teaches a synthetic binding and thread for use in shaping meat products that is dissolvable or disintegrable at cooking temperatures. The Examiner maintains that the string disclosed in Rueckert permits an item such as a cooked roast to retain its desired shape, but under continued heating and cooking temperatures dissolves and disintegrates so that no messy string need be cut away from the meat. The Examiner goes on to state that it would have been obvious to one of ordinary skill in the art to use a thread such as that disclosed by a Rueckert for a seam or a plurality of threads of the netting disclosed by Schafer in order to simplify the process of net removal. The disposition of such a thread in the invention of Schafer would have produced the invention as claimed in claims 4 and 19.

As the Examiner correctly pointed out, Schafer is silent on the provision of a thermoplastic release thread. In fact, Schafer is completely silent about a release thread as such. Rueckert discloses a synthetic binding or string to shape a meat

product that is capable of being dissolved by heat. Under continued heating and cooking temperatures, the string dissolves and disintegrates so there is no string that must be cut away.

Claim 4 is directed to a packaging casing, which comprises a knitted fabric and has at least one seam with a release thread characterized in that the release thread loses its strength under the influence of a treatment compatible with the packaging contents or as a result of a time lapse, with the release thread being a thermoplastic.

Neither of the Schafer or Rueckert patents disclose a knitted fabric nor do such patents disclose a thread for the seam of a knitted fabric that loses its strength as a result of treatment. The string of Rueckert is not a thread along a seam of a casing, but rather a string tied around the meat product with the string disintegrating at normal cooking temperatures. In Rueckert there is no necessity of removing the string after the meat has been processed. The meat may be carved directly without the necessity of handling it to remove the string. This is a completely different approach than that used in Schafer in which a net is adhered to one side of an edible film by a liquid soluble edible adhesive. The adhesive is dissolved and the net can be removed without destroying the film. Schafer does not teach providing the net with a thread that loses its strength as a result of a treatment. It is submitted that the one skilled in the art would not be lead to combine the Rueckert and Schafer disclosures as proposed by the Examiner since the basic approaches of the two disclosures are entirely different.

Even if the disclosures of the Rueckert and Schafer patents could be combined, the resulting combination would not result in the claimed subject matter. Claim 4 sets forth a packaging casing comprising a knitted fabric having a seam with a release thread characterized by the release thread losing its strength under the influence of a treatment compatible with the packaging contents or as a result of the time line. There is nothing to indicate that the net of Schafer can contain a seam that must be opened to remove the net, let alone the use of a thread to close a seam. Rueckert merely discloses a consumable string. There is nothing in either of the two references to

suggest a knitted fabric with seam closed by a thread that loses its strength as claimed. Accordingly, claim 4 is patentable over the proposed combination of references.

Claim 19 sets forth that there is a plurality of longitudinal seams distributed over the circumference. As mentioned above, neither the Rueckert nor Schafer patents patent discloses a seam with a release thread that loses its strength on the influence of treatment. It certainly does not disclose a plurality of seams with a release thread. Accordingly, for this and for the reasons set forth in connection with claim 4 above, claim 19 is patentable.

Information Disclosure Statement

It is noted that none of the references set forth on Form PTO-1449, Information Disclosure Citation in an Application, submitted upon the filing of the application were considered by the Examiner. A copy of the International Search Report and a copy of the German Search Report were also submitted. In addition, an English translation of the International Preliminary Report on Patentability was submitted on October 23, 2006. The foreign patent documents DE 91 07 065 U1, DE 25 46 278 B1, DE19 51 889 U and DE 37 25 263 A1 were cited in the International Search Report which detailed their relevancy. As stated in the MPEP §609.04(a), an English language version of the Search Report satisfies the requirement for a concise explanation of the relevance of these documents. Note also that documents DE 91 07 065 U1, DE 25 46 278 A1 and DE19 51 889 U were also specifically referred to in the International Preliminary Report on Patentability.

It is also noted that document DE 695 20 335 corresponds to U.S. Patent No. 5,814,515 which was made of record by the Examiner in this application. Accordingly, it is respectfully requested that the Examiner consider the citations in the Information Disclosure Statement and provide an indication that the citation was considered. In the event that the Examiner feels that any of these citations have not been presented in conformance with MPEP §609 and should not be considered, applicant requests that

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the Examiner provide an explanation as to why the filing of the International Search Report and International Patentability Opinion does not satisfy the requirements.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that all of the claims in the case are patentable over the cited art taken alone or in any possible combination. Favorable consideration of this application is respectfully requested.

Respectfully submitted,

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